

House File 474 - Introduced

HOUSE FILE 474
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 195)

A BILL FOR

1 An Act relating to placement of custody of a newborn infant
2 under the newborn safe haven Act.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.2, Code 2023, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 40A. "*Newborn infant*" means the same as
4 defined in section 233.1.

5 Sec. 2. Section 232.78, Code 2023, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 9. *a.* Notwithstanding any provision to
8 the contrary including priority in placement of a child under
9 subsection 8, if the department requests an ex parte order
10 from the juvenile court under this section pursuant to section
11 233.2 for transfer of custody of a newborn infant, one of the
12 following shall be applicable:

13 (1) If physical custody of the newborn infant was not
14 initially relinquished under section 233.2 to an adoption
15 service provider, the department shall request that custody be
16 transferred to the department.

17 (2) If physical custody of the newborn infant was initially
18 relinquished under section 233.2 to an adoption service
19 provider, the department shall request that custody be
20 transferred to the adoption service provider.

21 *b.* Upon receiving the order, the department or the adoption
22 service provider shall take custody of the newborn infant and
23 proceed in accordance with chapter 233.

24 *c.* For the purposes of this subsection, "*adoption service*
25 *provider*" means the same as defined in section 233.1.

26 Sec. 3. Section 232.95, Code 2023, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 2A. Notwithstanding any provision to the
29 contrary including placement of custody of a child pursuant to
30 subsection 2, if the hearing under this section is the result
31 of a request for an ex parte order from the court pursuant to
32 section 232.78 for a newborn infant for whom physical custody
33 was relinquished pursuant to section 233.2, the court shall
34 place custody of the child as provided in section 232.78,
35 subsection 9, and proceed in accordance with chapter 233.

1 Sec. 4. Section 232.102, Code 2023, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 11. Notwithstanding any provision to the
4 contrary, transfer of legal custody and placement of a newborn
5 infant for whom physical custody was relinquished pursuant to
6 section 233.2 shall be determined in accordance with chapter
7 233.

8 Sec. 5. Section 232.104, Code 2023, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 10. Notwithstanding any provision to the
11 contrary, legal custody and placement of a newborn infant for
12 whom physical custody was relinquished pursuant to section
13 233.2 shall be determined in accordance with chapter 233.

14 Sec. 6. Section 233.1, Code 2023, is amended to read as
15 follows:

16 **233.1 Newborn safe haven Act — definitions.**

17 1. **This chapter** may be cited as the "*Newborn Safe Haven*
18 *Act*".

19 2. For the purposes of **this chapter**, unless the context
20 otherwise requires:

21 a. "Adoption service provider" means a state-licensed
22 private agency which is recognized as exempt under section
23 501(c)(3) of the Internal Revenue Code and which represents
24 itself as placing children permanently or temporarily in
25 private family homes, receiving children for placement in
26 private family homes, and actually engaging in placement of
27 children in private family homes for adoption.

28 b. "Certified adoption investigator" means the same as
29 defined in section 600A.2.

30 c. "Department" means the department of health and human
31 services.

32 ~~a.~~ d. "First responder" means an emergency medical care
33 provider, a registered nurse staffing an authorized service
34 program under section 147A.12, a physician assistant staffing
35 an authorized service program under section 147A.13, a fire

1 fighter, or a peace officer as defined in [section 801.4](#).

2 ~~b.~~ e. "Institutional health facility" means a hospital
3 as defined in [section 135B.1](#), including a facility providing
4 medical or health services that is open twenty-four hours per
5 day, seven days per week and is a hospital emergency room or a
6 health care facility as defined in [section 135C.1](#).

7 ~~e.~~ f. "Newborn infant" means a child who is, or who appears
8 to be, ninety days of age or younger.

9 Sec. 7. Section 233.2, Code 2023, is amended to read as
10 follows:

11 **233.2 Newborn infant custody release procedures.**

12 1. *a.* A parent of a newborn infant may voluntarily release
13 custody of the newborn infant by relinquishing physical custody
14 of the newborn infant, without expressing an intent to again
15 assume physical custody, at an institutional health facility
16 or to an adoption service provider or by authorizing another
17 person to relinquish physical custody on the parent's behalf.
18 If physical custody of the newborn infant is not relinquished
19 directly to an individual on duty at the institutional health
20 facility or to an adoption service provider, the parent may
21 take other actions to be reasonably sure that an individual on
22 duty or the adoption service provider is aware that the newborn
23 infant has been left at the institutional health facility or
24 the location of the adoption service provider. The actions
25 may include but are not limited to making telephone contact
26 with the institutional health facility, the adoption service
27 provider, or a 911 service.

28 *b.* In lieu of the procedure described in paragraph "a",
29 a parent of a newborn infant may make telephone contact with
30 a 911 service and relinquish physical custody of the newborn
31 infant, without expressing an intent to again assume physical
32 custody, to a first responder who responds to the 911 telephone
33 call.

34 *c.* For the purposes of [this chapter](#) and for any judicial
35 proceedings associated with the newborn infant, a rebuttable

1 presumption arises that the person who relinquishes physical
2 custody at an institutional health facility, to an adoption
3 service provider, or to a first responder in accordance with
4 this section is the newborn infant's parent or has relinquished
5 physical custody with the parent's authorization.

6 2. a. Unless the parent or other person relinquishing
7 physical custody of a newborn infant clearly expresses an
8 intent to return to again assume physical custody of the
9 newborn infant, an individual on duty at the facility at which
10 physical custody of the newborn infant was relinquished, the
11 adoption service provider to whom physical custody of the
12 newborn infant was relinquished, or a first responder to whom
13 physical custody of the newborn infant was relinquished,
14 pursuant to [subsection 1](#) shall take physical custody of the
15 newborn infant. The individual on duty, the adoption service
16 provider, or the first responder may request the parent or
17 other person to provide the name of the parent or parents
18 and information on the medical history of the newborn infant
19 and the newborn infant's parent or parents. However, the
20 parent or other person is not required to provide the names
21 or medical history information to comply with [this section](#).
22 The individual on duty, the adoption service provider, or
23 the first responder may perform reasonable acts necessary to
24 protect the physical health or safety of the newborn infant.
25 The individual on duty and the institutional health facility
26 in which the individual was on duty, the adoption service
27 provider, and the first responder are immune from criminal or
28 civil liability for any acts or omissions made in good faith to
29 comply with [this section](#).

30 b. If the physical custody of a newborn infant is
31 relinquished to a first responder or to an adoption service
32 provider, the first responder or the adoption service provider
33 shall transport the newborn infant to the nearest institutional
34 health facility. The first responder or the adoption service
35 provider shall provide any parental identification or medical

1 history information to the institutional health facility.

2 *c.* If the physical custody of the newborn infant is
3 relinquished at an institutional health facility, the state
4 shall reimburse the institutional health facility for the
5 institutional health facility's actual expenses in providing
6 care to the newborn infant and in performing acts necessary to
7 protect the physical health or safety of the newborn infant.
8 The reimbursement shall be paid from moneys appropriated for
9 this purpose to the department ~~of human services~~.

10 *d.* If the name of the parent is unknown to the institutional
11 health facility, the individual on duty or other person
12 designated by the institutional health facility at which
13 physical custody of the newborn infant was relinquished shall
14 submit the certificate of birth report as required pursuant
15 to [section 144.14](#). If the name of the parent is disclosed
16 to the institutional health facility, the facility shall
17 submit the certificate of birth report as required pursuant to
18 section 144.13. The department ~~of public health~~ shall not file
19 the certificate of birth with the county of birth and shall
20 otherwise maintain the confidentiality of the birth certificate
21 in accordance with [section 144.43](#).

22 3. *a.* As soon as possible after the individual on duty,
23 the adoption service provider, or the first responder assumes
24 physical custody of a newborn infant released under subsection
25 1, and, if applicable, the individual or the adoption service
26 provider transports the newborn infant to the nearest
27 institutional health facility under subsection 2, paragraph
28 "b", the adoption service provider, or the first responder
29 shall notify the department ~~of human services and the~~. The
30 department shall take the actions necessary for the department
31 or an adoption service provider to assume the care, control,
32 and custody of the newborn infant.—The as follows:

33 (1) If physical custody of the newborn infant was not
34 initially relinquished to an adoption service provider,
35 the department shall immediately notify the juvenile court

1 and the county attorney of the department's action and the
2 circumstances surrounding the action and request an ex parte
3 order from the juvenile court ordering, in accordance with the
4 requirements of [section 232.78](#), subsection 9, the department
5 to take custody of the newborn infant. Upon receiving the
6 order, the department shall take custody of the newborn
7 infant. After the department takes custody of the newborn
8 infant, notwithstanding any provision to the contrary relating
9 to priority placement of the child under section 232.78, the
10 department shall, if feasible, place the newborn infant in
11 a prospective adoptive home. The department shall maintain
12 a list of prospective adoptive homes that have completed
13 placement investigations and have been preapproved by the
14 department or a certified adoption investigator.

15 (2) If physical custody of the newborn infant was initially
16 relinquished to an adoption service provider, the department
17 shall immediately notify the juvenile court and the county
18 attorney of the department's action and the circumstances
19 surrounding the action and request an ex parte order from the
20 juvenile court ordering, in accordance with the requirements of
21 section 232.78, subsection 9, the adoption service provider to
22 take custody of the newborn infant. Upon receiving the order,
23 the adoption service provider shall take custody of the newborn
24 infant.

25 b. Within twenty-four hours of the department or the
26 adoption service provider taking custody of the newborn infant,
27 the department or the adoption service provider shall notify
28 the juvenile court and the county attorney in writing of the
29 department's or adoption service provider's action and the
30 circumstances surrounding the action.

31 4. a. Upon being notified in writing by the department or
32 an adoption service provider under [subsection 3](#), the county
33 attorney shall file a petition alleging the newborn infant to
34 be a child in need of assistance in accordance with section
35 232.87 and a petition for termination of parental rights with

1 respect to the newborn infant in accordance with section
2 232.111, subsection 2, paragraph "a". A hearing on a child in
3 need of assistance petition filed pursuant to [this subsection](#)
4 shall be held at the earliest practicable time. A hearing on a
5 termination of parental rights petition filed pursuant to this
6 subsection shall be held no later than thirty days after the
7 day the physical custody of the newborn child was relinquished
8 in accordance with [subsection 1](#) unless the juvenile court
9 continues the hearing beyond the thirty days for good cause
10 shown.

11 *b.* Notice of a petition filed pursuant to [this subsection](#)
12 shall be provided to any known parent and others in accordance
13 with the provisions of [chapter 232](#) and shall be served upon any
14 putative father registered with the state registrar of vital
15 statistics pursuant to [section 144.12A](#). In addition, prior to
16 holding a termination of parental rights hearing with respect
17 to the newborn infant, notice by publication shall be provided
18 as described in [section 600A.6, subsection 5](#).

19 5. Reasonable efforts, as defined in [section 232.102](#), that
20 are made in regard to the newborn infant shall be limited to
21 the efforts made in a timely manner to finalize a permanency
22 plan for the newborn infant.

23 6. An individual on duty at an institutional health
24 facility, an adoption service provider, or a first responder
25 who assumes custody of a newborn infant upon the release of
26 the newborn infant under [subsection 1](#) shall be provided notice
27 of any hearing held concerning the newborn infant at the same
28 time notice is provided to other parties to the hearing and
29 the individual or first responder may provide testimony at the
30 hearing.

31 Sec. 8. Section 233.5, subsection 2, Code 2023, is amended
32 to read as follows:

33 2. A record described in [subsection 1](#) may be inspected and
34 the contents disclosed without court order to the following:

35 *a.* The court and professional court staff, including

1 juvenile court officers.

2 *b.* The newborn infant and the newborn infant's counsel.

3 *c.* The newborn infant's parent, guardian, custodian, and
4 those persons' counsel.

5 *d.* The newborn infant's court appointed special advocate and
6 guardian ad litem.

7 *e.* The county attorney and the county attorney's assistants.

8 *f.* An agency, adoption service provider, association,
9 facility, or institution which has custody of the newborn
10 infant, or is legally responsible for the care, treatment, or
11 supervision of the newborn infant.

12 *g.* The newborn infant's foster parent or an individual
13 providing a prospective adoptive home or preadoptive care to
14 the newborn infant.

15 Sec. 9. Section 233.6, Code 2023, is amended to read as
16 follows:

17 **233.6 Educational and public information.**

18 ~~The department of human services, in consultation with the~~
19 ~~Iowa department of public health and the department of justice,~~
20 shall develop and distribute the following:

21 1. An information card or other publication for
22 distribution by an institutional health facility, adoption
23 service provider, or a first responder to a parent who releases
24 custody of a newborn infant in accordance with [this chapter](#).

25 The publication shall inform the parent of a parent's rights
26 under [section 233.4](#), explain the request for medical history
27 information under [section 233.2, subsection 2](#), and provide
28 other information deemed pertinent by the departments.

29 2. Educational materials, public information announcements,
30 and other resources to develop awareness of the availability
31 of the newborn safe haven Act and the involvement of adoption
32 service providers among adolescents, young parents, and others
33 who might avail themselves of [this chapter](#).

34 3. Signage that may be used to identify the institutional
35 health facilities and adoption service providers at which

1 physical custody of a newborn infant may be relinquished in
2 accordance with [this chapter](#).

3

EXPLANATION

4

The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

5

6 This bill relates to the placement of custody of a child
7 under Code chapter 233, the newborn safe haven Act.

8 The bill includes definitions used in the bill for the
9 purpose of Code chapter 233 including "adoption service
10 provider" which means a state-licensed private agency which is
11 recognized as exempt under section 501(c)(3) of the Internal
12 Revenue Code and which represents itself as placing children
13 permanently or temporarily in private family homes, receiving
14 children for placement in private family homes, and actually
15 engaging in placement of children in private family homes for
16 adoption.

17 The bill amends the provisions relating to newborn infant
18 custody release procedures under Code chapter 233 to provide
19 for the relinquishing of physical custody of a newborn
20 infant, in addition to an institutional health facility or a
21 first responder, to an adoption service provider, and as a
22 result further provides that the adoption service provider
23 may request from the parent or other person relinquishing
24 the child to provide the name of the parent or parents and
25 information on the medical history of the newborn infant
26 and the newborn infant's parent or parents; may perform
27 reasonable acts necessary to protect the physical health or
28 safety of the newborn infant; is immune from criminal or civil
29 liability for any acts or omissions made in good faith to
30 comply with the bill; and shall transport the newborn infant
31 to the nearest institutional health facility and provide any
32 parental identification or medical history information to the
33 institutional health facility.

34 As soon as possible after an assuming physical custody of and
35 transporting the newborn infant to the nearest institutional

1 health facility, if applicable, the entity that initially
2 took physical custody of the child, including an adoption
3 service provider under the bill, shall notify the department
4 of health and human services (HHS). Current Code chapter 233
5 directs HHS, once notified, to follow a process for HHS to take
6 care, custody, and control of the newborn infant and then, if
7 appropriate, proceed through child in need of assistance and
8 termination of parental rights proceedings. The bill provides
9 instead that if an adoption service provider initially assumes
10 physical care of a newborn infant, the process would allow the
11 adoption service provider, rather than HHS, to assume care,
12 custody, and control of the newborn infant and proceed through
13 the remainder of the process. Under the bill, if physical
14 custody of the newborn infant was not initially relinquished
15 to an adoption service provider, HHS would follow the existing
16 process and take custody of the newborn infant. After taking
17 custody of the newborn infant, under current law, HHS could
18 then transfer custody of the child, in order of priority, to
19 an adult relative of the child, a fictive kin, a suitable
20 placement identified by the child's relative, or foster care.
21 The bill provides instead that if HHS takes custody of the
22 newborn infant, notwithstanding any provision to the contrary
23 relating to placement of the child, HHS shall, if feasible,
24 place the newborn infant in a prospective adoptive home. The
25 department shall maintain a list of prospective adoptive
26 homes that have completed placement investigations and have
27 been preapproved by HHS or a certified adoption investigator.
28 Alternatively, under the bill, if physical custody of the
29 newborn infant was initially relinquished to an adoption
30 service provider, HHS shall request an ex parte order from the
31 juvenile court ordering, in accordance with the requirements
32 of new Code section 232.78(9), the adoption service provider,
33 rather than HHS, take custody of the newborn infant. Upon
34 receiving the order, the adoption service provider takes
35 custody of the newborn infant. The bill provides that

1 depending on whether custody of the child is placed with HHS
2 or the adoption service provider, either HHS or the adoption
3 service provider manages the remainder of the existing process,
4 including the child in need of assistance and termination of
5 parental rights proceedings.

6 The bill specifically includes adoption service providers
7 and prospective adoptive homes in those entities who may
8 have access to the record developed relating to release
9 of the newborn infant. The bill also provides that the
10 information, materials, announcements, and other resources
11 developed regarding the newborn safe haven Act include adoption
12 service providers as distributors of the resources and include
13 information about the involvement of adoption service providers
14 under the newborn safe haven Act, and identify adoption service
15 providers to whom a newborn infant may be relinquished.

16 The bill makes other conforming changes in the Code to
17 include the involvement of adoption service providers under the
18 newborn safe haven Act as provided under the bill.